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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,733	04/03/2002	Amanda Hawthorne	2296.2330	6305

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EXAMINER

WINAKUR, ERIC FRANK

ART UNIT PAPER NUMBER

3736

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/831,733

Applicant(s)

HAWTHORNE ET AL.

Examiner

Eric F Winakur

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 4-8 and 12-15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Objections

1. Claims 4 - 8 and 12 - 15 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 - 3, and 9 - 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanton et al. in "Bioelectrical impedance and zoometry..." Stanton et al. teach a body fat estimating system for domestic cats that includes performing zoometric measurements (see p. 252, col. 2 - p. 253, col. 1) from various parts of a cat and employing the equation for percentage body fat as given in Table 3 (p. 254) which includes measurements of body circumference and leg length (see Figure 2). Stanton et al. teach use of an equation instead of a look-up table, as claimed; however, these are well known alternate equivalent expedients for converting measured values to a computed result. As such, it would have been obvious to modify Stanton et al. to implement a look-up table for the equation, as it has generally been held to be within the skill level of the art to substitute alternate equivalent expedients. With regard to claims

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2 and 3, although Stanton et al. do not use the same zoometric measurements as those set forth in the claims it would have been within the skill level of the art to use the measurement and analysis technique described by Stanton et al. to determine relationships between zoometric measurements from other body sites, such as those set forth in the claims, and percentage body fat. With regard to claims 9 - 11, the claims merely relate to a conversion of a measured percentage body fat and weight (both of which are disclosed in Stanton et al.) to a target or ideal body weight. Target or ideal body weights or healthy percent body fat are well established for cats. As such, it is merely a simple calculation/tabulation to solve the algebraic relationship that exists between the current state of the cat and the target value; for any given inputs, a corresponding target value will exist and these inputs and target values can be arranged in a look-up table format. It would have been within the skill level of the art to modify the calculated percentage body fat and the measured weight of Stanton et al. with known ideal weight parameters for healthy cats to provide a conversion between the measured values and the healthy parameters. With regard to claim 10, it was within the skill level at the time of the invention to determine the most appropriate relationship between the factors (percent fat, measured weight, ideal weight) to optimize the animal's health, including the particular equation, as claimed.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lefebvre et al. and Gresham et al. disclose measurement of

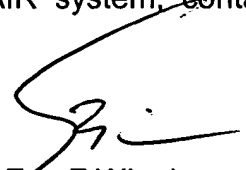
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parameters (including zoometric) from red foxes and cows, respectively, for predicting body composition of the animals.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric F Winakur whose telephone number is 703/308-3940. The examiner can normally be reached on M-Th, 7:30-5; alternate Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 703/308-3130. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric F Winakur
Primary Examiner
Art Unit 3736

3 February 2004